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PATENT

New Attorney Docket No. 144009.00200 Old Attorney Docket No. 54436-20002.00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors:	William A. Knaus et al.)	Group Art Unit: 3626
Appl. No.:	09/822,261)	Examiner: Najarian, Lena
Filing Date:)	
Title:	BROADBAND COMPU CONTROL AND MANA	TER-BASED N AGEMENT OF	ETWORKED SYSTEMS FOR MEDICAL RECORDS

Commissioner for Patents United States Patent and Trademark Office P.O. Box 1450 Alexandria, Virginia 22313-1450

MAIL STOP: PETITION

Sir:

PETITION UNDER 37 C.F.R. § 1.28 FOR REFUNDS WHEN SMALL ENTITY STATUS IS LATER ESTABLISHED; HOW ERRORS IN SMALL ENTITY STATUS ARE **EXCUSED**

Applicant for the above-captioned U.S. Patent Application is a small entity. An appropriate small entity declaration was filed with the United States Patent and Trademark Office ("USPTO") and all fees charged have been at the small entity rate. Applicant filed a Request for Continued Examination (RCE) on May 12, 2005 with a request for the RCE fee to be charged to the undersigned's deposit account. On receipt of the monthly statement of the account, it was noticed that the USPTO had charged applicant the RCE fee as a large entity. This was an error and applicant respectfully requests a refund.

A copy of the Patent Application Fee Determination Record and the four previous fee worksheets obtained from the United States Patent and Trademark Office Public PAIR Access Site for this application are enclosed. As can be seen, all previous fee worksheets reflect fees charged for a small entity. Only the last fee worksheet for the RCE charged the applicant as a large entity on May 24, 2005.

Remarks Regarding Establishment of Small Entity Status

Pursuant to 37 CFR § 1.27(c)(1) and (2), applicant established small entity status by a written and signed assertion of entitlement to small entity status in the original Utility Patent Application Transmittal. The intent to assert small entity status was clearly indicated and claimed as a Small Business Concern in compliance with the assertion requirement. Accordingly, it was signed by the attorney of record at the time of filing.

Additionally, under § 1.27 (c)(3) Assertion by payment of the small entity basic filing or basic national fee. The payment, by any party, of the exact amount of one of the small entity basic filing fees set forth in §§ 1.16(a), 1.16(b), 1.16(c), 1.16(d), 1.16(e), or the small entity basic national fee set forth in § 1.492(a), will be treated as a written assertion of entitlement to small entity status even if the type of basic filing or basic national fee is inadvertently selected in error. All four previous fee worksheets were paid as a small entity.

Remarks Regarding Refund of Difference for Fees Paid in Regard to RCE

Applicant's small entity status was properly established at time of original filing according to 37 CFR § 1.27(c). The United States Patent and Trademark Office acknowledged such establishment by charging applicant as a small entity on four fee worksheets as such. Applicant requests that the large entity fees charged with the filing of the Request for Continued Examination be refunded to Deposit Account No. 50-1682, referencing Attorney Docket No. Examination be refunded to Deposit Account No. 50-1682, referencing Attorney Docket No. 144009.00200. Copies of each of the five Patent Application Fee Determination Record are enclosed. Applicant was charged \$795 for the RCE as a large entity instead of \$395 as a small entity on May 24, 2005. This is a timely, written request within three months of payment date in compliance with 37 CFR § 1.28 (b) (1). Applicant is entitled to the difference of \$395.

Attorney Docket No.: 144009.00200

Conclusion

Applicant respectfully requests that the \$395 difference mistakenly charged as a large entity rather than a small entity be refunded to the Deposit Account No. 50-1682, referencing Attorney Docket No. 144009.00200.

No fee is believed to be due with filing of this Petition, in part, because Applicant is requesting correction of a mistake by the USPTO. However, if there are any other fees due with the filing of this Petition, Applicant respectfully requests that any and all such fees due be charged to Deposit Account No. 50-1682, referencing Attorney Docket No. 144009.00200. Respectfully submitted,

Date: August 10, 2005

Fee Worksheets Enclosed:

Customer No. 51362 Powell Goldstein LLP 901 New York Ave., N.W. Suite 300 Washington, DC 20001-4413 Telephone: (202) 347-0066 Facsimile: (202) 624-7222

Powell Goldstein LLP

James Remen

Registration No. 36,902

PTO/S8/06 (08-03)

Approved for use through 7/31/2006, OMB 0551-0032

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The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USFTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete. Including gathering, preparing, and-submisting the completed application form to the USFTO. Time with vary depending upon the individual case. Any comments on the amount of time you require to complete this form another suggestions for reducing this burden, should be sent to the Chief information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. OO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PATENT APPLICATION FEE DETERMINATION RECORD 22,261 Effective October 1, 2000 OTKER THAN CLAIMS AS FILED . PART I SMALL ENTITY SMALL ENTITY RO TYPE -(Cotumn 2) (Cohema 1) FEE RATE RATE FEE TOTAL CLAIMS 710.00 AGE FEE 355.00 BASIC PEE NUMBER DITRA OR HELDER FRED ROR X318= OR X\$ 9= TOTAL CHARGEABLE CLAIMS 59 minus 20-XBO-X40= 20 OR minus 3 o DEPENDENT CLAIMS MULTIPLE DEPENDENT CLAIM PRESENT +270= +135-OR $^{\circ}$ If the difference in column 1 is less than zero, enter ${f T}'$ in column 2 TOTAL 826 OR TOTAL OTHER THAN CLAIMS AS AMENDED - PART II SMALL ENTITY SMALL ENTITY OR (Column 3) (Calumn 2) (Column 1) ADDI-ADD1 NCIEST CLUME. TIONAL RATE ESENT TIONAL MARIA RATE FEE PREVIOUSLY EXTRA FEE AFTER PAID FOR X\$18-X\$ 9= OR Minus Total X80= XAO= OR Independent FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM +270= **-135**= OR OR ADDIT. FEE ADDIT. FEE 225.05 (Column 1) (Cotumn 3) (Copman S) ADDI ADDI-RATE TIONAL PRESENT PREVIOUSLY TIONAL RATE REMEN DITRA EEE AFTER FEE PNO FOF MENDMEN X\$18-X\$ 9-OA X80-**X40**e FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM +270= +135= OR OR ADDIT FEE 4-20 05 (Column 1) (Column 2) ROBLEST (Column 3) ADDI TIONAL RATE MADABER TIONAL RELLEVAG RATE U PREVIOUSLY DITRA FEE FEE AFTER AMERICALIST PAID FOR X318-OR X8 9= THE XBO-Mas X40-OR FIRST PRESENTATION OF MULTIPLE DEPENDENT CLASS +270= Œ +135-* If the entry in column 1 is itself than the entry in column 2, write "If in column 3. * If the Physical Number Previously Padd For" of THIS EPACE is less than 50,0 enter "20," ***U the Physical Number Previously Padd For" In This SPACE is two than 3, enter "2." The Physical Number Previously Padd For" (Total or Independent) is the National number. TOTA 1030 RO ADDIT. FEE ADDIT, FEE nd in the appropriate box in column 1.

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Application or Docket Number PATENT APPLICATION FEE DETERMINATION RECORD 03/672.0005-Effective October 1, 2000 OTHER THAN CLAIMS AS FILED - PART I SMALL ENTITY SMALL ENTITY OR TYPE C (Column 2) (Column 1) FEE RATE FEE RATE TOTAL CLAIMS Basic Fee 710.00 BASIC FEE 355.00 OR NUMBER EXTRA NUMBER FILED FOR X\$18= X\$ 9= minus 20= TOTAL CHARGEABLE CLAIMS 59 X80= X40= 120 OR minus 3 = INDEPENDENT CLAIMS П MULTIPLE DEPENDENT CLAIM PRESENT +270= +135= OR * If the difference in column 1 is less than zero, enter "0" in column 2 TOTAL OR TOTAL 826 OTHER THAN CLAIMS AS AMENDED - PART II SMALL ENTITY SMALL ENTITY OR (Column 3) (Column 2) ADDI-(Column 1) ADDI-PIGHEST CLAIMS TIONAL PRESENT RATE NUMBER TIONAL RATE REMAINING **EXTRA** FEE PREVIOUSLY FEE AFTER **PAID FOR** AMENDMENT X\$18= X\$ 9= OR Minus •• Total X80= *** X40= OR independent FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM +270= +135= OR TOTAL OR ADDIT. FEE ADDIT, FEE (Column 3) (Column 2) (Calumn 1) ADDI-ADDI-HIGHEST CLAIMS TIONAL PRESENT RATE NUMBER TIONAL REMAINING RATE 0 EXTRA FEE PREVIOUSLY FEE AFTER PAID FOR AMENDMENT X\$18-X\$ 9= OR Minue Total X80= Minus X40= OR independent FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM +270= OR +135= TOTAL RO ADDIT. FEE ADDIT, FEE (Column 3) (Column 2) (Column 1) ADDI-ADDI ielisi CANS NUMBER PRESENT TIONAL RATE TIONAL REMAINING RATE u PREVIOUSLY EXTRA FEE FEE AFTER PAID FOR

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PATENT APPLICATION FEE DETERMINATION RECORD

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03/672.0005

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PTO/SB/30 (04-05) Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Request for **Continued Examination (RCE)** Transmittal

Address to: Mail Stop RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

ed to respond to a collection of informa	tion unless it contains a valid OMB control number.
Application Number	09/822,261
Filing Date	April 2, 2001
First Named Inventor	William A. KNAUS et al.
Art Unit	2137
Examiner Name	Michael J. Pyzocha
Attorney Docket Number	144009.00200

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

 Submission required under 37 CFR 1.114 Note: If the RCE is proper, an amendments enclosed with the RCE will be entered in the order in which they were applicant does not wish to have any previously filed unentered amendment(s) entere amendment(s). 	filed unless applicant ed, applicant must req	instructs otherwise. If juest non-entry of such								
 a. Previously submitted. If a final Office action is outstanding, any amendment considered as a submission even if this box is not checked. 	ents filed after the final	Office action may be								
i. Consider the arguments in the Appeal Brief or Reply Brief previous	ly filed on									
b. Fnclosed										
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ii. Affidavit(s)/ Declaration(s) iv. Oth	ner									
2. Miscellaneous										
	Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a a. period of months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)									
b. Other	Other									
3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when to the Director is hereby authorized to charge the following fees, any under the Deposit Account No. 50-1682 I have enclosed as the Deposit Account No. 10-1682	erpayment of fees, or o	credit any overpayments, to s sheet.								
i. RCE fee required under 37 CFR 1.17(e)										
ii. Extension of time fee (37 CFR 1.136 and 1.17)										
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c. Payment by credit card (Form PTO-2038 enclosed) WARNING: Information on this form may become public. Credit card information sh card information and authorization on PTO-2038.	ould not be included	on this form. Provide credit								
SIGNATURE OF APPLICANT, ATTORNEY, OR AG		11040.0005								
Name (Prin/Type) James Princenial	Date Registration No.	May 12, 2005								
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I hereby certify that this correspondence is being deposited with the United States Postal Service with addressed to: Mail Stop BCE. Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 Office on the date shows delow.	sufficient postage as first or facsimile transmitted t	class mail in an envelope o the U.S. Patent and Trademark								
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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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